

SENATE BILL 1606
By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, relative to privilege tax on storing of nuclear material.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding sections 2 through 9 of this act as a new part thereto.

SECTION 2. As used in this part, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Person" includes:

(A) Any private individual, corporation, partnership, firm, association, trust, estate, or other entity, but does not include any foreign, federal, state, or local government, or political subdivision, or any agent or agency or contractor thereof; and

(B) Any legal successor, representative, agent, or agency of the foregoing entities included within the definition of "person";

(4) "Special nuclear material" means:

(A) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which is presently or hereafter may be determined to be special nuclear material by the atomic energy commission or any successor agency thereof, of the United States government pursuant to the Atomic Energy Act of 1954, as amended, but does not include "source material," as defined in that act; or

(B) Any material artificially enriched by any of the foregoing, but does not include "source material," as defined in the Atomic Energy Act of 1954.

SECTION 3.

(a) The storage by any person in connection with any business for profit, regardless of the form of such profit, of special nuclear material is declared to be a taxable privilege in this state.

(b) Every person exercising such privilege shall be liable for the tax, whether such person's possession of such special nuclear material for purposes of storage is by virtue of such person's ownership thereof or is pursuant to a lease, contract, license, loan, or otherwise.

SECTION 4. The tax levied by the provisions of this part shall be in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes levied.

SECTION 5.

(a) Administration and collection of the tax shall be by the department in the same manner as other taxes are collected by the state.

(b) The commissioner may promulgate rules and regulations necessary and reasonable for the administration of the provisions of this part.

SECTION 6. The storage of special nuclear material shall be taxed in the amount of one hundred dollars (\$100) for every metric ton stored within this state.

SECTION 7.

(a) The tax imposed by the provisions of this part shall be due and payable monthly on the first day of the month next succeeding the month in which the tax accrues.

(b)

(1) For the purpose of ascertaining the amount of tax payable, it shall be the duty of each person liable for the tax to transmit to the commissioner a return or returns, as applicable, upon forms provided by the commissioner.

(2) Such return or returns shall be transmitted so that they are received by the commissioner on or before the fifteenth day of the month next succeeding the month in which the tax accrues.

(3) Each return shall show the month covered by that return, the county and municipality in which the special nuclear material with respect to which the return is filed was stored, the number of metric tons stored within such county or municipality, the amount of tax owed under this part, and such other information as the commissioner may require.

(4) The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 8.

(a) The tax shall become delinquent on the sixteenth day of the month succeeding the month in which the tax accrues.

(b)

(1) Any person liable for the tax who, before the delinquency date, fails to make any return required by this part and pay the full amount of the tax due and payable under this part, shall be liable for a specific penalty in the amount of ten

percent (10%) of the tax due, which penalty shall be in addition to other penalties provided herein.

(2) A further penalty of fifty percent (50%) of the amount of the tax remaining due and unpaid on such delinquency date may be added if, in the opinion of the commissioner based on reasonable evidence thereof, the nonpayment of the tax or any portion thereof is due to an intent to evade payment of the tax.

(c) If the nonpayment of the tax is due to an intent to evade payment of the tax, the person liable for the tax under this part may be restrained and enjoined by any court of competent jurisdiction from producing and distributing special nuclear materials in the county or municipality in which the storage with respect to which the tax liability or use took place. Such proceeding shall be instituted in the name of the state by the attorney general and reporter, upon the request of the commissioner.

(d) There shall be added to the amounts of tax and penalty due under this part interest in accordance with the provisions of § 67-1-801.

(e) All such penalties and interest imposed under this part shall be payable to and collectible by the commissioner in the same manner as if they were a part of the tax imposed hereunder.

(f) Any person required by the provisions of this part to make a return, pay a tax, keep records, or furnish information deemed necessary by the commissioner for the computation, assessment, or collection of the tax imposed under this part, and who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by this part, or rules and regulations promulgated by the commissioner thereunder, commits a Class B misdemeanor, in addition to other penalties provided by law.

(g) Any person, or any officer, employee, or, in the case of a partnership, member of a partnership, who willfully and fraudulently makes and signs a return which such person, officer, employee, or member does not reasonably believe to be true and correct as to every material fact commits a felony and is subject to the penalties prescribed for perjury under the laws of this state.

SECTION 9. All revenues collected from each taxpayer under this part shall be allocated to a special fund for research, development and acquisition of abatement technologies and industrial waste cleanup. Such fund shall be administered and maintained by the department of economic and community development.

SECTION 10. This act shall take effect July 1, 2003, the public welfare requiring it.